

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CHARLES RAY KNUCKLES, #278167,

Petitioner,

v.

CASE NO. 08-CV-10942  
HONORABLE PATRICK J. DUGGAN

THOMAS K. BELL,

Respondent.

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**OPINION AND ORDER DISMISSING WITHOUT PREJUDICE**  
**THE PETITION FOR WRIT OF HABEAS CORPUS**  
**AND DENYING PETITIONER'S MOTION FOR RECORDS**

At a session of said Court, held in the U.S.  
District Courthouse, Eastern District  
of Michigan, on April 14, 2008.

PRESENT: HONORABLE PATRICK J. DUGGAN  
U.S. DISTRICT COURT JUDGE

**I. Introduction**

Charles Ray Knuckles ("Petitioner"), a state prisoner currently confined at the Gus Harrison Correctional Facility in Adrian, Michigan, has filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 asserting that his bond or parole was improperly revoked and that he is being held in violation of his constitutional rights. He has also filed a motion for records. Petitioner was convicted of false pretenses of \$1,000 or more but less than \$20,000 and uttering and publishing pursuant to pleas entered in the Monroe County Circuit Court. He was sentenced to three to five years imprisonment on

the false pretenses conviction and to three to 14 years imprisonment on the uttering and publishing conviction on November 29, 2007. *See* Offender Profile, Michigan Department of Corrections Offender Tracking Information System (“OTIS”). Petitioner does not indicate whether he sought appellate review of his initial convictions or his bond/parole revocation and subsequent sentence in the state courts. For the reasons set forth, the Court dismisses without prejudice the petition for writ of habeas corpus and denies the motion for records.

## **II. Discussion**

The doctrine of exhaustion of state remedies requires state prisoners to present their claims to the state courts before raising their claims in a federal habeas corpus petition. *See* 28 U.S.C. § 2254(b)(1)(A) and (c); *O'Sullivan v. Boerckel*, 526 U.S. 838, 845, 119 S. Ct. 1728, 1731 (1999); *Rust v. Zent*, 17 F.3d 155, 160 (6th Cir. 1994). Exhaustion requires that a prisoner “fairly present” the substance of each federal constitutional claim to the state courts “by citing a provision of the Constitution, federal decisions using constitutional analysis, or state decisions employing constitutional analysis in similar fact patterns.” *Levine v. Torvik*, 986 F.2d 1506, 1516 (6th Cir. 1993). The exhaustion requirement is satisfied if a prisoner invokes one complete round of the State’s established appellate review process. *O'Sullivan*, 526 U.S. at 845, 119 S. Ct. at 1732. A Michigan prisoner must present each issue to both the Michigan Court of Appeals and the Michigan Supreme Court before seeking habeas review in federal court. *See Welch v. Burke*, 49 F. Supp. 2d 992, 998 (E.D. Mich. 1999); *see also Hafley v. Sowders*, 902 F.2d 480, 483 (6th Cir. 1990). The burden is on the petitioner to prove

exhaustion. *Rust*, 17 F.3d at 160.

Petitioner has not met of his burden of demonstrating that he has exhausted his state court remedies. He neither alleges nor establishes that he has sought any review of his convictions, his bond/parole revocation, or his sentence and current incarceration in the Michigan appellate courts. Petitioner's unexhausted claims should be addressed to, and considered by, the state courts in the first instance.

### **III. Conclusion**

Based upon the foregoing analysis, this Court concludes that Petitioner has failed to exhaust his state court remedies as to the claims contained in his petition and that he must do so before seeking federal habeas review.

Accordingly,

The Court **DISMISSES WITHOUT PREJUDICE** the petition for writ of habeas corpus for failure to exhaust state court remedies. Given this determination, the Court also **DENIES** Petitioner's motion for records. The Court makes no determination as to the merits of Petitioner's claims.

**IT IS SO ORDERED.**

s/PATRICK J. DUGGAN  
UNITED STATES DISTRICT JUDGE

Copy to:  
Charles Ray Knuckles, #278167  
2727 East Beecher St.  
Adrian, MI 49221